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(Original Signature of Member)

116TH CONGRESS
2D SESSION

H. R. _____

To amend the Family and Medical Leave Act of 1993 to provide for leave with respect to a public health emergency, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. SCOTT of Virginia (for himself, Ms. ADAMS, Mr. TAKANO, and Mrs. LEE of Nevada) introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Family and Medical Leave Act of 1993 to provide for leave with respect to a public health emergency, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as “Emergency Family and
5 Medical Leave Expansion Act”.

1 **SEC. 2. AMENDMENTS TO THE FAMILY AND MEDICAL**
2 **LEAVE ACT OF 1993.**

3 (a) PUBLIC HEALTH EMERGENCY LEAVE.—Section
4 102(a)(1) of the Family and Medical Leave Act of 1993
5 (29 U.S.C. 2612(a)(1)) is amended by adding at the end
6 the following:

7 “(F) During the 2-year period beginning
8 on the date of the enactment of the Emergency
9 Family and Medical Leave Expansion Act, be-
10 cause of a qualifying need related to a public
11 health emergency in accordance with section
12 110.”.

13 (b) REQUIREMENTS.—Title I of the Family and Med-
14 ical Leave Act of 1993 (29 U.S.C. 2611 et seq.) is amend-
15 ed by adding at the end the following:

16 **“SEC. 110. PUBLIC HEALTH EMERGENCY LEAVE.**

17 “(a) DEFINITIONS.—The following shall apply with
18 respect to leave under section 102(a)(1)(F):

19 “(1) APPLICATION OF CERTAIN TERMS.—The
20 definitions in section 101 shall apply, except as fol-
21 lows:

22 “(A) ELIGIBLE EMPLOYEE.—In lieu of the
23 definition in section 101(4)(A), the term ‘eligi-
24 ble employee’ means an employee who has been
25 employed for at least 30 days by the employer

1 with respect to whom leave is requested under
2 section 102(a)(1)(F).

3 “(B) EMPLOYER THRESHOLD.—Section
4 101(4)(A)(i) shall be applied by substituting ‘1
5 or more employees’ for ‘50 or more employees
6 for each working day during each of 20 or more
7 calendar workweeks in the current or preceding
8 calendar year’.

9 “(C) HEALTH CARE PROVIDER.—In sec-
10 tion 101(6), the term ‘health care provider’ in-
11 cludes a nurse practitioner.

12 “(D) PARENT.—In lieu of the definition in
13 section 101(7), the term ‘parent’, with respect
14 to an employee, means any of the following:

15 “(i) A biological, foster, or adoptive
16 parent of the employee.

17 “(ii) A stepparent of the employee.

18 “(iii) A parent-in-law of the employee.

19 “(iv) A parent of a domestic partner
20 of the employee.

21 “(v) A legal guardian or other person
22 who stood in loco parentis to an employee
23 when the employee was a child.

24 “(2) ADDITIONAL DEFINITIONS.—In addition to
25 the definitions described in paragraph (1), the fol-

1 lowing definitions shall apply with respect to leave
2 under section 102(a)(1)(F):

3 “(A) QUALIFYING NEED RELATED TO A
4 PUBLIC HEALTH EMERGENCY.—The term
5 ‘qualifying need related to a public health emer-
6 gency’, with respect to leave, means the em-
7 ployee has a need for leave for one of the fol-
8 lowing:

9 “(i) To comply with a recommenda-
10 tion or order by a public official having ju-
11 risdiction or a health care provider on the
12 basis that—

13 “(I) the physical presence of the
14 employee on the job would jeopardize
15 the health of others because of—

16 “(aa) the exposure of the
17 employee to coronavirus; or

18 “(bb) exhibition of symp-
19 toms of coronavirus by the em-
20 ployee; and

21 “(II) the employee is unable to
22 both perform the functions of the po-
23 sition of such employee and comply
24 with such recommendation or order.

1 “(ii) To care for a family member of
2 an eligible employee with respect to whom
3 a public official having jurisdiction or a
4 health care provider makes a determina-
5 tion that the presence of the family mem-
6 ber in the community would jeopardize the
7 health of other individuals in the commu-
8 nity because of—

9 “(I) the exposure of such family
10 member to coronavirus; or

11 “(II) exhibition of symptoms of
12 coronavirus by such family member.

13 “(iii) To care for the son or daughter
14 of such employee if the school or place of
15 care has been closed, or the child care pro-
16 vider of such son or daughter is unavail-
17 able, due to a public health emergency.

18 “(B) PUBLIC HEALTH EMERGENCY.—The
19 term ‘public health emergency’ means an emer-
20 gency with respect to coronavirus declared by a
21 Federal, State, or local authority.

22 “(C) CHILD CARE PROVIDER.—The term
23 ‘child care provider’ means a provider who re-
24 ceives compensation for providing child care
25 services on a regular basis, including an ‘eligible

1 child care provider’ (as defined in section 658P
2 of the Child Care and Development Block
3 Grant Act of 1990 (42 U.S.C. 9858n)).

4 “(D) CORONAVIRUS.—The term
5 ‘coronavirus’ has the meaning given the term in
6 section 506 of the Coronavirus Preparedness
7 and Response Supplemental Appropriations
8 Act, 2020.

9 “(E) SCHOOL.—The term ‘school’ means
10 an ‘elementary school’ or ‘secondary school’ as
11 such terms are defined in section 8101 of the
12 Elementary and Secondary Education Act of
13 1965 (20 U.S.C. 7801).

14 “(F) FAMILY.—The term ‘family member’,
15 with respect to an employee, means any of the
16 following:

17 “(i) A parent of the employee.

18 “(ii) A spouse of the employee.

19 “(iii) A sibling of the employee.

20 “(iv) Next of kin of the employee or
21 a person for whom the employee is next of
22 kin.

23 “(v) A son or daughter of the em-
24 ployee.

1 “(vi) A grandparent or grandchild of
2 the employee.

3 “(b) LEAVE TAKEN INTERMITTENTLY OR ON A RE-
4 DUCED WORK SCHEDULE.—

5 “(1) IN GENERAL.—Subject to paragraph (2),
6 leave taken under section 102(a)(1)(F) may not be
7 taken intermittently or on a reduced work schedule.

8 “(2) CARE FOR SON OR DAUGHTER.—Para-
9 graph (1) shall not apply with respect to leave taken
10 for the purpose described in subsection (a)(2)(A)(iii)
11 if the son or daughter of the employee with respect
12 to whom the subsection applies has not been exposed
13 to coronavirus.

14 “(c) RELATIONSHIP TO PAID LEAVE.—

15 “(1) IN GENERAL.—An employee may elect to
16 substitute any of the accrued vacation leave, per-
17 sonal leave, or medical or sick leave for leave under
18 section 102(a)(1)(F) in accordance with section
19 102(d)(2)(B).

20 “(2) EMPLOYER REQUIREMENT.—An employer
21 may not require an employee to substitute any leave
22 as described in paragraph (1) for leave under section
23 102(a)(1)(F).

24 “(d) NOTICE.—In any case where the necessity for
25 leave under section 102(a)(1)(F) for the purpose described

1 in subsection (a)(2)(A)(iii) is foreseeable, an employee
2 shall provide the employer with such notice of leave as is
3 practicable.

4 “(e) CERTIFICATION.—

5 “(1) IN GENERAL.—An employer may require
6 that a request for leave under section 102(a)(1)(F)
7 be supported by documentation described in para-
8 graph (2). An employer may not require such docu-
9 mentation until not later than 3 weeks after the date
10 on which the employee takes such leave.

11 “(2) SUFFICIENT CERTIFICATION.—The fol-
12 lowing documentation shall be sufficient certifi-
13 cation:

14 “(A) With respect to leave taken for the
15 purposes described in clause (i) or (ii) of sub-
16 section (a)(2)(A)—

17 “(i) a recommendation or order from
18 a public official having jurisdiction or a
19 health care provider that the relevant indi-
20 vidual has symptoms of coronavirus or
21 should be quarantined; or

22 “(ii) documentation or evidence that
23 the relevant individual has been exposed to
24 coronavirus.

1 “(B) With respect to leave taken for the
2 purposes described in clause (iii) of subsection
3 (a)(2)(A), notice from the school, place of care,
4 or child care provider of the son or daughter of
5 the employee of closure or unavailability.

6 “(f) RESTORATION TO POSITION.—

7 “(1) IN GENERAL.—Section 104(a)(1) shall not
8 apply with respect to an employee of an employer
9 who employs fewer than 25 employees if the condi-
10 tions described in paragraph (2) are met.

11 “(2) CONDITIONS.—The conditions described in
12 this paragraph are the following:

13 “(A) The employee takes leave under sec-
14 tion 102(a)(1)(F).

15 “(B) The position held by the employee
16 when the leave commenced does not exist due to
17 economic conditions or other changes in oper-
18 ating conditions of the employer—

19 “(i) that affect employment; and

20 “(ii) are caused by a public health
21 emergency during the period of leave.

22 “(C) The employer makes reasonable ef-
23 forts to restore the employee to a position
24 equivalent to the position the employee held
25 when the leave commenced, with equivalent em-

1 employment benefits, pay, and other terms and
2 conditions of employment.

3 “(D) If the reasonable efforts of the em-
4 ployer under subparagraph (C) fail, the em-
5 ployer makes reasonable efforts during the pe-
6 riod described in paragraph (3) to contact the
7 employee if an equivalent position described in
8 subparagraph (C) becomes available.

9 “(3) CONTACT PERIOD.—The period described
10 under this paragraph is the 1-year period beginning
11 on the earlier of—

12 “(A) the date on which the qualifying need
13 related to a public health emergency concludes;
14 or

15 “(B) the date that is 12 weeks after the
16 date on which the employee’s leave under sec-
17 tion 102(a)(1)(F) commences.”.